

Message Text

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ACTION EA-12

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SUBJ: CONSULTATIONS WITH GOI ON INTERPRETATION OF LANGUAGE
IN AID AND DLG AGREEMENTS

1. BACKGROUND

AS THE DEPARTMENT IS AWARE, WE HAVE LONG BEEN CONCERNED
BY GOI ACTIONS WHICH UNILATERALLY IMPLEMENT PROVISIONS OF
THE TWO AGREEMENTS IN A MANNER WHICH WE BELIEVE TO BE IN
CONFLICT WITH THE WRITTEN WORD
AND TO THE DETRIMENT OF EMPLOYEES ASSIGNED IN INDONESIA TO
IMPLEMENT GHOSE AGREEMENTS. WE THINK THE TIME IS RIGHT AND
NOW PLAN TO REQUEST FORMAL CONSULTATIONS AS AUTHORIZED BY
EACH AGREEMENT, PORTIONS OF WHICH ARE CITED BELOW.

2. THE PROBLEM

PRESENTLY ONLY THOSE PEOPLE WHO CARRY DIPLOMATIC
PASSPORTS ARE AUTHORIZED BY THE GOVERNMENT OF INDONESIA TO
IMPORT AUTOMOBILES FREE OF DUTY. THIS ACTION PRECLUDES ALL
STATE AND USICA EMPLOYEES OF GRADE FSS-8 AND BELOW FROM
IMPORTING CARS: IT EXCLUDES ENLISTED PERSONNEL IN THE
OFFICE OF THE DEFENSE ATTACHE: IT EXCLUDES ALL AID
EMPLOYEES OTHER THAN SOME SECTION CHIEFS, THE DIRECTOR
AND THE DEPUTY DIRECTOR; AND IT EXCLUDES ALL DEFENSE
LIAISON GROUP(DLG) PERSONNEL WITH THE EXCEPTION OF
THE CHIEF OF THE GROUP.

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PAGE 02 JAKART 06216 121020Z

THE BULK OF THE PERSONNEL AFFECTED ARE EMPLOYEES
OF AID OR THE DLG, ALL OF WHOM ARE IN THIS COUNTRY UNDER
BILATERAL AGREEMENTS WITH THE GOI. BOTH AGREEMENTS WERE
CLEARLY INTENDED BY US TO AUTHORIZE EMPLOYEES TO FULL
DUTY-FREE TREATMENT. THE INTERPRETATION OF THE WORDING
IS THE SOURCE OF OUR PROBLEMS.

3. THE AGREEMENTS

AID--THE ECONOMIC AND TECHNICAL COOPERATION AGREEMENT BETWEEN THE GOVERNMENT OF THE UNITED STATES OF AMERICA AND THE GOVERNMENT OF THE REPUBLIC OF INDONESIA WAS SIGNED ON THE SIXTH OF OCTOBER 1950 AND IS THE PRESENT GOVERNING AGREEMENT.

ARTICLE 3 OF THAT AGREEMENT STATES THE GOVERNMENTS WILL, UPON REQUEST OF EITHER OF THEM, CONSULT REGARDING ANY MATTER RELATING TO THE APPLICATION OF THIS AGREEMENT OR OPERATION THEREUNDER....."

ARTICLE 4 STATES IN PART "THE GOVERNMENT OF THE REPUBLIC OF INDONESIA AGREES TO... CONSIDER THIS SPECIAL MISSION AND ITS PERSONNEL AS PART OF THE DIPLOMATIC MISSION OF THE UNITED STATES OF AMERICA IN INDONESIA FOR THE PURPOSE OF ENJOYING THE PRIVILEGES AND IMMUNITIES ACCORDED TO THAT MISSION AND ITS PERSONNEL OF COMPARABLE RANK."

DLG--THE DEFENSE LIAISON GROUP EXISTS UNDER THE AUTHORITY OF AN EXCHANGE OF NOTES SIGNED IN JAKARTA AUGUST 15, 1950. PROVISIONS OF THE NOTES ARE SIMILAR BUT THAT SIGNED BY MOHAMAD HATTA, THEN FOREIGN MINISTER, CONTAINS THE FOLLOWING PROVISIONS:

ARTICLE 8--"THE TWO GOVERNMENTS WILL, UPON THE REQUEST OF EITHER OF THEM, CONSULT REGARDING ANY MATTER RELATING TO THE APPLICATION OF THIS PROGRAM OF THE OPERATIONS OR ARRANGEMENTS CARRIED OUT PURSUANT TO THIS UNCLASSIFIED

UNCLASSIFIED

PAGE 03 JAKART 06216 121020Z

PROGRAM."

ARTICLE 11 STATES "SUCH PERSONNEL WILL... OPERATE AS PART OF THE EMBASSY UNDER THE DIRECTION AND CONTROL OF THE CHIEF OF THE DIPLOMATIC MISSION... AND WILL ENJOY THE SAME PRIVILEGES AND IMMUNITIES ACCORDED COMPARABLE PERSONNEL OF THAT EMBASSY."

4. CONCLUSION: WE ARE AWARE OF THE INONESIAN POSITION RE POSSESSION OF DIPLOMATIC PASSPORT : NEVERTHELESS, WE ARE GUARDEDLY OPTIMISTIC ABOUT THE SUCCESS OF THESE CONSULTATIONS WHICH WILL NOTE SUCH FACTS AS OUR TOTAL ASSISTANCE TO INDONESIA WHICH, SINCE 1949, TOTALS \$2,193.4 MILLION, AND OUR TOTAL MILITARY ASSISTANCE SINCE 1950 TO AND INCLUDING 1978 WHICH HAS BEEN IN THE AMOUNT OF \$316,487 MILLION. THESE ARE GOOD ARGUMENTS FOR RELIEVING THE UNNECESSARY BURDEN CARRIED BY OUR EMPLOYEES.

5. WE WILL WELCOME ANY ADVICE THE DEPARTMENT MAY WISH TO GIVE WHICH WILL ASSIST IN THIS EFFORT.
MASTERS

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